



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA

V.

YONGUE JOHN GROGAN

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§

CASE NO. 1:05-CR-136(4)

**MEMORANDUM ORDER ADOPTING
RECOMMENDATION ON MOTION TO SUPPRESS
EVIDENCE SEIZED PURSUANT TO SEARCH WARRANT**

Pending before the Court is *Defendant's Motion to Suppress Evidence Seized Pursuant to Search Warrant* [Clerk's doc. #198]. The Court referred the motion to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for hearing and consideration pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court for the Eastern District of Texas.

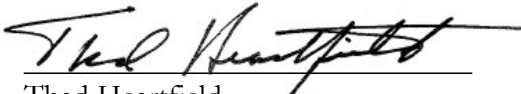
Having conducted the proceedings in the form and manner prescribed by the Federal Rules of Criminal Procedure, the magistrate judge issued his *Report and Recommendation on Defendant's Motion to Suppress Evidence Seized Pursuant to Search Warrant* [Clerk's doc. #213]. Judge Giblin recommended that the Court deny *Defendant's Motion to Suppress Evidence Seized Pursuant to Search Warrant*.

Defendant filed objections to the magistrate judge's recommendation. *See Defendant's Objections* [Clerk's doc. #231]. In the *Objections*, Defendant specifically objects to the magistrate's ultimate finding that the search warrant and accompanying affidavit at issue was supported by probable cause. The Defendant argues that he can, in fact, establish that the affidavit supporting the search warrant at issue lacks indicia of probable cause. *See Objections*. Defendant further argues that the affidavit at issue was "boilerplate" and, therefore, a "bare bones" affidavit, lacking in the proper indicia of probable cause. *Id.*

Pursuant to Defendant's request and in accordance with 28 U.S.C. § 636(b)(1), the Court conducted a *de novo* review of the magistrate's findings, the record, the relevant evidence, Defendant's specific objections, and the applicable law in this proceeding. After review, the Court is of the opinion that the *Report and Recommendation* [Clerk's doc. #213] should be accepted. Defendant's objections are overruled.

Accordingly, Judge Giblin's *Report and Recommendation on Defendant's Motion to Suppress Evidence Seized Pursuant to Search Warrant* [Clerk's doc. #213] is **ADOPTED** by the Court. The factual findings and legal conclusions of the magistrate are therefore fully incorporated by the undersigned in support of this order. The Court **ORDERS** that *Defendant's Motion to Suppress Evidence Seized Pursuant to Search Warrant* [Clerk's doc. #198] is **DENIED**.

SIGNED this the 9 day of May, 2006.


Thad Heartfield
United States District Judge